

20 July 1976

MEMORANDUM FOR THE RECORD

SUBJECT: Meeting with William Miller and Hal Ford,
Senate Select Committee on Intelligence Staff

1. This afternoon, Bill Miller and Hal Ford, Senate Select Committee staff, visited the Agency for a meeting with Mr. E. H. Knoche, DDCI, and Messrs. [] and George L. Cary. The basic purpose of the meeting was to follow up on earlier discussions on the intention of the Committee to look into the subject of intelligence analysis and production. Mr. Miller explained that four Subcommittees have now been established. They are:

Subcommittee on Rights of American Citizens, Chairman Bayh
Subcommittee on Intelligence Collection, Production and Quality, Chairman Stevenson
Subcommittee on Intelligence Charters, Chairman Huddleston
Subcommittee on Budget, Chairman Hathaway.

2. Mr. Miller indicated that the senior staff man for the Intelligence Production Subcommittee will be Hal Ford. Other members of the Subcommittee staff will be Ann Karalekas and Rick Inderfurth and Miller said he would spend as much of his time as he could spare on this subject. He said they were interested in going into the entire Intelligence Community production effort. As he put it they want to cover intelligence production from "A to Z." Messrs. [] and Knoche pointed out there would be some problem areas, especially with respect to the President's Daily Brief and certain contingency estimates. Mr. Miller said he understood this and explained that it was the intention of the Committee to operate in a non-adversary posture. They hope to work jointly with the Agency in looking into the various areas of their interest. He added that they want to avoid confrontations on policy matters or on the availability of publications. He made it clear, however, that they want to review the entire product of all intelligence agencies and to be informed with regard to the particular consumers of this product. Mr. Knoche said he expected to be in a position to respond to Mr. Miller on this subject by Friday. It is expected that we will prepare a list of CIA publications so that their immediate areas of interest can be identified. This will make their review

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of these publications manageable. Mr. Miller indicated he would like the DCI to coordinate this effort on behalf of the Committee for the Intelligence Community. Mr. Knoche pointed out that while we could tackle this question within the Agency, he would want to consult with the Director as to how it could be worked out within the Intelligence Community.

3. Mr. Miller said the Committee as a whole would cover the subjects of oversight and covert action. He mentioned that the 29th of July looks like a good date for our wrapup briefing on all covert action programs and suggested that at that time we give the Committee an evaluation of the effectiveness of the [redacted] (which was the first covert action finding on which this Committee was briefed). In the future, he said the Committee would want to receive follow-up reports on the effectiveness of these programs. He said they also would want to get periodic reports on all covert action programs in some way that would not pose an undue burden.

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4. In connection with the activities of the Budget Subcommittee, Mr. Knoche strongly recommended that they get a very knowledgeable staff man to handle this subject. Mr. Miller said he had someone in mind for this position, and the inference was it was someone presently in the Agency, but he declined to name him at this time. He said they had the problem of concern about co-optation in this regard but he feels it absolutely essential that they get an individual in this position with some background and experience.

5. After Mr. Miller covered the above topics, Mr. Knoche indicated there were several points he wished to raise in which the Committee could be helpful to the Agency. In connection with Chairman Inouye's discussion with Mr. Knoche about CIA relationships with GAO, Mr. Knoche said he would like this to be a three-pronged arrangement in which we work with GAO under arrangements established by the SSCI with the GAO reporting its findings to the SSCI under strict security safeguards. Mr. Miller said this was quite satisfactory from their standpoint since they expect the GAO to report exclusively to their Committee on matters pertaining to intelligence.

6. Mr. Knoche mentioned that if we were to cooperate fully with the Committee as we both hoped that we could, it would be absolutely essential that there be good security procedures both with respect to the clearance of staff and to the handling of information. Mr. Miller mentioned that they had had a very good session with Mr. Gambino and FBI representatives on the subject of staff clearances and we agreed that the system worked out in that meeting appeared to be

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mutually beneficial both to the Committee and to the Intelligence Community. Memoranda of Understanding are being prepared by the FBI and the Agency on this subject. [] stressed the importance of including in the rules a prohibition against publication by staff members of information obtained in the course of employment with the SSCI not only during the period of employment but also for the indefinite future. Mr. Miller stated that that provision was being written into the rules. 25X1

7. Mr. Knoche then turned to the subject of changes in the intelligence charter. We indicated that the Director was particularly anxious to get action on the Second Deputy legislation as soon as it is cleared by OMB and submitted to the Hill. We said that while topics such as the sources and methods legislation could be included in the overall revision of the 1947 and 1949 Acts, the Director was anxious to have the Congress act on the Second Deputy legislation at the earliest possible opportunity. Mr. Knoche also mentioned the CIARDS legislation which is pending in the Rules Committee in the House and we expressed the hope that legislation can clear the Congress before final action is taken by the conferees on the Defense Appropriation bill which contains the annual appropriation to the CIARDS fund. While Mr. Miller indicated he expects substantial progress by the various Subcommittees in the areas of their jurisdiction, it is fairly clear that no final action will be taken on the intelligence charters in this Congress.

8. Mr. Knoche brought up the subject of the Freedom of Information and Privacy Acts and the excessive burden which this legislation has placed on CIA. He said he was hopeful the Committee would focus on this area and provide some relief. Mr. Miller said he thought the Committee would be receptive to our appeal to look into this area.

9. Finally, Mr. Knoche advised Mr. Miller that we would want to consult with the staff and the Committee on the legal and practical complications arising from the Agency's responsibility for collection of intelligence on international terrorism.

George L. Cary
Legislative Counsel

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E. H. Knoche Answers to 24 June 1976 Questions
Submitted by the Senate Select Committee on Intelligence

I. The Nature and Execution of the DDCI's Responsibilities

A. Have you worked out a formal arrangement with Mr. Bush on the specific nature of your responsibilities? What subjects relative to the Agency's administration will require his attention more than yours? How would you define your day-to-day responsibilities beyond the general definition outlined in the President's Executive Order 11905?

Director Bush and I are in the process of defining arrangements pertaining to his role as executive head of the CIA and the Deputy's role in day-to-day operation of the Agency. The responsibility in the latter regard, as stated in Executive Order 11905, is a new one with no firm precedent to guide. The Director and his Deputy both believe the intent of the Executive Order is clear. The Director, as head of the CIA, coordinator of the Intelligence Community, intelligence adviser to the President, and producer of national intelligence, must be freed of administrative details to plan for and work on these very large responsibilities. His Deputy will assume the administrative, operating tasks of CIA and carry out such other responsibilities as may be delegated to him by the Director. The Director's Deputy, in dealing in Agency matters, will be working also with a Deputy for the Intelligence Community. Each Deputy, as a subordinate of the DCI, will, of necessity, work closely together to assist the DCI in accomplishing what is required. In due course, new legislation covering a second Deputy will be proposed for congressional approval. Meanwhile, any formal delineation of duties among the DCI and his two Deputies will be made after we have had the benefit of additional experience. It is clear, however, that as Deputy, I will be responsible for developing Agency programs, plans, and budgets, and for ensuring the balance of resource allocations to meet assigned tasks.

B. In previous testimony to this Committee, Director Bush stated that he would not give up his own management responsibilities within the Agency. How do you interpret this and what effect will it have on your duties?

The Director of Central Intelligence is responsible for the production of national intelligence to satisfy the needs of the President and his advisers in the National Security Council. The DCI is also the coordinator of the Intelligence Community and chairs the Committee on Foreign Intelligence, making resource decisions concerning the

National Foreign Intelligence Program. To accomplish these tasks, the DCI must have the authority and expertise that flows to him from the Central Intelligence Agency, and the DCI will frequently be the final authority on key management issues within the Agency. To cut himself off from the CIA would inhibit, if not prevent, the DCI from fulfilling his responsibilities. As his Deputy in the Agency, I will have clearly in mind the Director's primacy; I will seek to free him of these burdens of day-to-day, administrative detail, and will otherwise assist in ensuring that the functions and products of CIA are responsive to DCI needs and concerns.

C. A recurring problem for successive DCI's has been the amount of time absorbed by clandestine operations. The nature of the operations and the fact that they involve people in sensitive situations, demanded the involvement of the Agency's senior official. Will you assure some or most of the DCI's responsibilities in this area?

Yes, I will doubtless assume some DCI responsibilities in overseeing and managing clandestine activities and in seeing that they are both effective and proper. Many of these activities are of high-level interest and sensitivity, and the DCI will continue to have a responsibility and concern for them.

D. Executive Order 11905 states that the DCI "shall act as principal spokesman to the Congress for the Intelligence Community..." Given the redefinition of the DDCI's responsibilities, will you assume some of the responsibilities for congressional briefings? If so, in what area?

Yes, there are areas in which I am likely to assume a share of responsibility for congressional briefings. The details of CIA budgets, programs, and plans will probably fall to the Deputy to present to congressional bodies. And, in the absence of the DCI, I will very likely provide substantive intelligence briefings to congressional elements. The Director wants to keep very close contact with Congress, but there are many invitations to appear, and he has told me he expects me to be available for congressional briefings.

E. Do you have long-term objectives you wish to implement? What are they?

I do have long-term objectives. Among the most important are:

--Improvement of intelligence analysis and production to make the product as comprehensive, timely, and useful as possible.

--Improvement of innovative research and development of new intelligence techniques and equipment for the collection, processing, analysis, and production of intelligence information.

--Development of improved methods to evaluate the priorities of intelligence requirements and to assess the performance of all phases of intelligence in order to make better judgments on where to apply resources.

II. CIA Budget Procedures

A. Contingency Reserve Fund

The CIA has a substantial Contingency Reserve Fund which was designed to be used to fund CIA activities which could not be anticipated. In the past, however, money has been drawn from the Fund for the support of multi-year major covert actions, the continuance of which were anticipable. Congress is not informed in advance of proposals to draw money from the Contingency Reserve Fund even though the projects to be supported by such funds have been in the planning stage for months. Congress is notified only after the draw-down; in contrast OMB approval must be obtained beforehand. Given the requirement of S. Res. 400 that this Committee be informed of significant anticipated activities will you notify the Committee, in advance, of proposals to draw funds from the Contingency Reserve Fund?

STAT The Reserve for Contingencies was established in 1951 to provide CIA with an alternative to seeking supplemental appropriations. While supplemental appropriations might be made available to the Agency without exposing their purpose or amount, use of a Reserve fund avoids the delay which might arise because of the possible inability to identify a suitable supplemental appropriation request in which to include funds for a covert CIA activity. The Reserve is not a fund used exclusively for covert action activity; it also is used to meet unbudgeted requirements which essentially are administrative in nature. Last year, for example, we obtained a release from the Reserve to fund the emergency relocation of a [redacted] station and its personnel [redacted] Last year we began a new procedure for notifying Congress of proposals to draw funds from the Contingency Reserve. At the time our request for approval of the release is submitted to OMB, we notify our oversight committees of the proposal. I have instructed that the Senate Select Committee be added to the list of recipients of these letters. STAT

B. Reprogramming Funds

There are few limits on the DCI's authority to reprogram funds provided to the CIA, even though the heads of other departments, such as DOD, are limited in this area. Would you agree to notify the Committee of any reprogramming decision involving over \$250,000 within 48 hours of the decision?

Last year, in considering our 1976 Budget Request, the Committee on Appropriations of the House of Representatives placed some restrictions on reprogramming which were subsequently endorsed by the Senate/House conferees. We have been following the reprogramming guidelines for nearly a year and will continue to do so. In addition, the President has prescribed in Executive Order 11905 that the Committee on Foreign Intelligence establish reprogramming guidelines. These guidelines are still under development. I believe it would be inadvisable to agree to any new reporting arrangements pending the completion of the review of the subject by the CFI. It is my hope that the Agency can meet the needs of all our oversight committees regarding reprogramming notification with a single set of guidelines satisfactory to all. Different sets of guidelines would be confusing and would impose a considerable and unnecessary burden of work.

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If the Committee would like to receive the annual financial report each year, we would be pleased to provide it.

D. Spending Projections

Under the Budget Act, agencies are required to provide five-year projections of spending. During the past year, the CIA made available OMB's lump sum projections for the Agency's budget for the next several years. The lump sums apparently did not reflect inflation. They did not show the effect of the funding level on the Agency's ability to accomplish its mission. No options were presented. Will you provide the Committee with detailed long-term budget plans showing options for the Agency, the effects of varying levels of funding on the accomplishment of the Agency's mission, and the impact of present budget commitments on future Agency spending?

Our Budget projections are prepared in accordance with instructions issued by OMB, which are intended to maintain a certain level of consistency among projections developed by all Executive departments and agencies. Deviation from those instructions could create some awkwardness, but if the Committee requests more detailed long-range plans, we will do what we can to comply.

E. CIA Proprieties

The financial impact of CIA proprieties has not until this past year been reflected in the Agency budget submission. Will you provide a clear statement of the financial impact of CIA proprieties in upcoming budget submissions? Will you provide, as the predecessor committee recommended, an annual report on proprieties?

Our 1977 budget request included financial information about CIA proprieties. We will include in our 1978 request a more detailed presentation, which I hope will satisfy the needs of the Committee for information on CIA proprieties, and may make an annual report on proprieties superfluous. If it does not meet the Committee's needs, I will be happy to work further with the Committee on this subject.

III. CIA Internal Controls

A. Rank of the General Counsel

The General Counsel now ranks below the Deputy Directors and below the Inspector General. In order to guarantee the General Counsel's independence, would you recommend a promotion to the same level as the Deputy Directors and the Inspector General?

The General Counsel, who heads an office independent of any of the Agency's four directorates, serves as adviser to the Director on legal matters. An Agency regulation [] states that he shall have access to any information in CIA necessary to perform his assigned duties. The organizational structure and his guaranteed access insure that the General Counsel can fulfill his responsibilities to the degree which the Director and I expect. I do not believe promotion to the same level as the Deputy Director is necessary to sustain, or will contribute to, a strong General Counsel function.

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B. Misuse of Secret Information

It has been suggested that CIA employees having access to secret intelligence might misuse that information to personally profit from their position of trust. You have informed this Committee about steps taken in this regard with respect to senior management who are in a position to award contracts. What steps have been taken with respect to other CIA employees who have access to confidential information such as economic intelligence?

A number of Executive branch and Agency directives deal with actual or apparent conflict of interest situations. Section 203 of Executive Order 11222 (effective 11 May 1965), for example, states in part:

SEC.203. "Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as Federal employees, or (b) engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment."

This section would certainly cover CIA employees who have access to confidential economic intelligence.

CIA regulation [] implements E.O. 11222 and Civil Service Regulations regarding conflict of interest, dated 9 June 1967. [] requires financial interest statements to be filed by a broader class of employees than just those in a position to award contracts. Following is the section of the regulation governing who must file:

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(2) PERSONNEL REQUIRED TO FILE. Agency personnel will file employment and financial interest statements if they are in any of the categories specified in subparagraph (a), (b), or (c) immediately below:

(a) Personnel paid at a level of the Federal Executive Salary Schedule

(b) Personnel classified at GS-13 or above, or at a comparable pay level, in positions determined by the appropriate Deputy Director, Operating Official, or Head of Independent Office to be positions whose incumbents are responsible for making a Government decision or taking a Government action regarding

- (1) contracting or procurement;
- (2) administering or monitoring grants or subsidies;
- (3) regulating or auditing private or other non-Federal enterprise; or
- (4) other activities where the decision or action has an economic impact on the interests of any non-Federal enterprise

(c) Personnel classified at GS-13 or above, or at a comparable level, in positions which the appropriate Deputy Director, Operating Official, or Head of Independent Office has determined to have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflict of interest

(d) Personnel in positions designated under subparagraph (b) above may be excluded from the reporting requirement if the designating official also determines that

- (1) the duties of the position are such that the likelihood of the incumbent's involvement in a conflict of interest is remote; or
- (2) the duties of the position are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the degree of supervision and review over the incumbent or the inconsequential effect of any conflict of interest on the integrity of the Government.

Should the General Counsel and Inspector General be assured, by statute, of access to all Agency information necessary for their work? Will you notify this Committee if either of these officers is denied access to CIA information they request?

Section 6(c)(3) of Executive Order 11905 directs heads of intelligence agencies or departments to

"Ensure that Inspectors General and General Counsels of their agencies have access to any information necessary to perform their duties..."

STAT Agency regulations [] require that the Inspector General and General Counsel have access to all information necessary for the performance of their respective duties. In my view these firm requirements make a statute requiring access completely superfluous. Because of the access requirements of E.O. 11905 and Agency regulations, I do not anticipate that either of these officers will be denied information they need. I am aware of the Committee's interest in guaranteeing these officials access to information, and will keep the Committee informed of any serious problems in this regard.

IV. Intelligence Analysis

If analysts are unwitting of covert actions it would seem that the quality and relevance of the intelligence analysis is affected? Should analysts be a part of the covert action approval process?

I firmly believe that analysts must be knowledgeable to some degree of covert action in their area of expertise. This serves two important purposes. First, it gives the planners of a covert action an expert independent judgment of the potential effect of a proposed covert action. Second, the analyst can thus more accurately separate and study the forces at work in a particular country, and the strengths of these forces. The Deputy Director for Intelligence does review covert action proposals and, as part of the review process for finished intelligence, is cognizant of any relevancy to or impact covert action could have on intelligence judgments. The DDI has most often brought individual analysts into this process.

In his testimony before the predecessor committee, [] described a "natural tension" between intelligence analysis and policy which can often result in the product of the analysts going unused. What relationship should exist between the analysts and the policymakers in order that the intelligence product is both useful and useable?

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The intelligence analyst and policymaker have distinct roles and functions, and I believe a certain detachment between the two should be maintained. The analyst has an obligation to the policymaker to be as objective and forthcoming as possible in providing his assessments of world situations. The policymaker can choose to accept or reject that assessment, but if he has given the intelligence judgment the substantial consideration in his policy review, he will have fulfilled his obligation to the analyst.

The predecessor committee noted the severe pressures which could be directed toward the DCI to make him alter his intelligence judgments. What organizational mechanisms would you recommend to protect the independence and integrity of these judgments?

I don't know that organizational mechanisms are the answer to this problem. Rather, the solution lies in the selection and confirmation of men or women with the integrity and dedication to the intelligence profession to withstand improper pressures. The hallmark of intelligence must be its independence, and pressures to alter intelligence judgments must be treated as other improper requests. During my confirmation hearing, I detailed how I would react to an improper request.

ADDITIONAL QUESTIONS FOR DDCI-NOMINEE KNOCHE

SUBMITTED BY SENATOR GARY HART

A. 1947 National Security Act

The predecessor committee recommended that the 1947 National Security Act be rewritten. Do you agree that this needs to be done?

Do you think the new legislation should include charters for the organizations and entities which make up the U.S. intelligence community, including the CIA?

Do you believe the new legislation should contain specific and clearly defined prohibitions or limitations on certain intelligence activities carried out by our intelligence agencies, including the CIA?

With respect to the CIA, what prohibitions or limitations should be contained in a new version of the 1947 National Security Act?

Will you, as DDCI, assist this Committee in writing this new legislation?

The National Security Act of 1947 is by now in need of substantial revisions. I am concerned, however, that in our zeal to bring the Act up to date, we leave sufficient flexibility for the Executive to deal with future unforeseen problems. Thus, questions such as whether charters for all intelligence entities should be included in the Act, and whether specific prohibitions should be included and what they might be, deserve the most careful consideration. I pledge the cooperation of the CIA with the Committee in studying and arriving at decisions on these important questions.

B. Covert Action

Since 1961 the CIA has conducted some [redacted] covert action projects plus [redacted]. In light of this, would you agree that, over the years, covert action has become a frequently used tool of U.S. foreign policy? Do you believe this was the intention of the framers of the 1947 National Security Act, or was covert action originally intended to be an exceptional tool, used only under extraordinary circumstances? Would you agree that covert action should only be used to deal with grave threats to American security?

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The use of CIA's covert action capability by Government policymakers has declined dramatically in recent years. When the United States was confronting worldwide communist subversion in the 1950's and communist insurgency in the 1960's, our Government found it necessary to aggressively oppose the expansion of communist political influence. With today's changing pattern of world affairs, however, covert action consumes less than 2 percent of CIA's budget. I do not believe this qualifies covert action as a frequently used tool of U.S. foreign policy.

I believe it is clear that the National Security Act was intended to confer on CIA the authority to conduct covert action. How often the framers of the Act intended that it be used is not so clear. However, I believe that it is likely, given the then-recent successful history of the OSS, and the general international atmosphere of the late 1940's, that the framers intended covert action to be used whenever policymakers thought it was necessary. The important point to me, however, is that it is rarely used today. The standard in Section 662 of the Foreign Assistance Act, that an operation must be "important to the national security," is a more flexible and appropriate standard for the use of covert action than permitting its use only in response to a grave threat to American security.

The predecessor committee recommended, following its investigation of alleged assassination plots, a statute to prohibit such activities. In addition, the Committee recommended a statute to prohibit efforts to subvert democratic governments and support for police or other internal security forces which engage in the systematic violation of human rights. Do you believe these prohibitions are necessary and can you support them?

During my confirmation hearings, I stated that I did not believe that in peacetime there would ever be any occasion for this country to engage in political assassinations. Section 5(g) of E.O. 11905 prohibits employees of the United States Government from engaging in political assassination. In addition, the President has publicly stated that he will support legislation making it a crime to assassinate or attempt or conspire to assassinate a foreign official during peacetime.

I share your uneasiness about covert actions designed to overthrow democratic governments (I believe the word subvert is much too broad). However, I believe definitional problems and changes in the nature of particular governments make a flat prohibition too inflexible a standard. Whether a government was democratically elected should be a major factor in the consideration of covert action proposals.

Support for police or other internal security forces which engage in the systematic violation of human rights should be subject to stringent review, rather than prohibited by statute. Counter-intelligence, anti-terrorism, and anti-narcotics efforts often require the cooperation of internal security forces whose record on human rights is not admirable. Yet, it is clearly in the U.S. Government's interest to obtain maximum cooperation in these matters.

The predecessor committee found that a majority of covert action projects--those that are considered low-risk or low-cost--can be approved within the CIA. Do you believe, as did the predecessor committee--that all covert action projects, whether high or low risk, should be reviewed by the appropriate National Security Council subcommittee?

The Operations Advisory Group, established by E.O. 11905 to review and make recommendations on covert action proposals, is composed of very senior Government officials. Certainly these officials should individually review each major covert action proposal--as is done. However, I do not believe it is necessary or advisable to require them to review every individual covert action, no matter how minor its impact.

The predecessor committee strongly recommended that this committee should be informed of all major or significant covert operations prior to their initiation. What are your views on prior notification or consultation? Also, the Committee recommended that this committee should be kept fully and currently informed on all covert action projects and the DCI should submit a semi-annual report on all such projects to the committee. Do you agree?

The designated oversight Committee should receive timely reports on all intelligence activities, including covert action. I could not support a requirement of prior Committee notification on covert action. This would be totally impractical during times of congressional recess when crises can arise. Intelligence activities are rarely single-step operations, but are generally continuing efforts extending over a period of time. Therefore, the Committee will normally have ample opportunity to have their view considered on operations reported in a timely fashion. Regarding a semi-annual report on covert action, I want to work closely with the new Committee to satisfy its information needs. If the Committee is kept currently informed of intelligence activities, I am not sure a semi-annual report would contribute to the Committee's knowledge or perspective. I am confident that satisfactory arrangements can be reached with the Committee in this regard.

Finally, how would you like to see the reporting requirements to Congress on covert operations, as found in the Hughes-Ryan amendment to the 1974 Foreign Assistance Act, amended or revised?

Congressional reporting requirements on covert action are not logically or appropriately part of the Foreign Assistance Act, and I would therefore support a repeal of the Hughes-Ryan amendment. Congress does need to be kept informed of covert action, but the statutory base for such reporting should be a general requirement to keep our regular oversight committees informed of intelligence activities. When the Committee proceeds to its consideration of the National Security Act, it is my hope that a repeal of Hughes-Ryan will be reported along with other appropriate amendments.

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